

REMARKS

Claims 1-49 constitute the pending claims in the present application. Claims 12 to 19, 31 to 47 and 49 have been withdrawn from consideration. Claims 1 to 10, 20 to 29 and 48 stand rejected. Claims 11 and 30 are objected to as being dependent on a rejected base claim.

Claims 1 to 11, 20 to 30 and 48 have been amended. Amendment of the originally filed claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the option to prosecute further the originally filed claims or similar ones, in the instant or a subsequent patent application.

Support for these amendments may be found throughout the written description, the Figures and the originally filed claims. No new matter has been added. Without limitation, support for the claim amendments may be found at: originally filed claims 3 and 4 to 10; Formulae 16, 23, 31, 34, 35, 36, 37, 38 and 40 of Figure 1; Figure 8; Formula 48 of Figure 9; Formula 57 of Figure 11; page 13, line 1, to page 19, line 11; page 21, lines 6 to 15; page 31, lines 15 to 16; page 33, lines 16 to 22; page 34, line 19, to page 35, line 10; page 36, lines 1 to 5; page 36, line 21, to page 38, line 8; and Examples 3, 7, 8, 9 and 11.

Before addressing the merits of the outstanding office action, Applicants thank the Examiner for her comments with respect to the claims and the cited art.

Rejections under 35 U.S.C. § 112, Second Paragraph

To expedite prosecution among other reasons, Applicants have amended certain of the pending claims to address points 2, 3 and 4 of the outstanding Office Action.

In brief and without limitation, Applicants note that additional structures have been added to independent claims 1, 20 and 48 in part to address the various tautomer/isomers that are possible with the claimed fluorescein based-ligands and diagnostic kits. As indicated above, there is support in the description and originally filed claims for the claim amendments made.

Accordingly, Applicants respectfully request reconsideration and withdrawal of these rejections.

Rejections under 35 U.S.C. § 102(a)/(b)

To expedite prosecution among other reasons, Applicants have amended certain of the pending claims to address points 6, 7 and 8 of the outstanding Office Action.

In brief and without limitation, Applicants note that chemical moiety V in independent claims 1, 20 and 48 has been amended to comprise certain types of nitrogen atoms that are capable of forming a chelating agent with other Lewis bases of the claimed ligand. Applicants respectfully submit that none of the compounds identified in the outstanding Office Action anticipates nor renders obvious the amended claims. As indicated above, there is support in the description and originally filed claims for the claim amendments made.

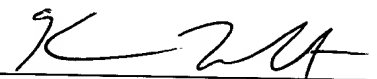
Accordingly, Applicants respectfully request reconsideration and withdrawal of these rejections.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims are in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at 617-832-1000. Should an extension of time be required, Applicants hereby petition for same and request that the extension fee and any other fee required for timely consideration of this application be charged to **Deposit Account No. 06-1448**.

Respectfully Submitted,

FOLEY, HOAG LLP

By: 
Kingsley L. Taft
Reg. No. 43,946

Dated: December 17, 2003

Customer No: 25181

Patent Department

Foley, Hoag LLP

155 Seaport Blvd.

Boston, MA 02210-2600

Facsimile: (617) 832-7000